

Executive Summary – Enforcement Matter – Case No. 44025

Aqua Utilities, Inc.

RN102956448

Docket No. 2012-0858-MWD-E

Order Type:

Findings Agreed Order

Findings Order Justification:

Three or more enforcement actions (NOVs, orders, etc.) over the prior five year period for the same violation(s).

Media:

MWD

Small Business:

Yes

Location(s) Where Violation(s) Occurred:

Woodcreek WWTP, located approximately 1,200 feet south southeast of the intersection of Farm-to-Market ("FM") Road 2325 and Jacob's Well Road, approximately 4 miles north of Wimberley, Hays County

Type of Operation:

Wastewater treatment facility with an associated collection system

Other Significant Matters:

Additional Pending Enforcement Actions: No

Past-Due Penalties: No

Other: N/A

Interested Third-Parties: None

Texas Register Publication Date: November 2, 2012

Comments Received: No

Penalty Information

Total Penalty Assessed: \$21,089

Amount Deferred for Expedited Settlement: \$0

Amount Deferred for Financial Inability to Pay: \$0

Total Paid to General Revenue: \$21,089

Total Due to General Revenue: \$0

Payment Plan: N/A

SEP Conditional Offset: \$0

Name of SEP: N/A

Compliance History Classifications:

Person/CN - Average

Site/RN - Average

Major Source: No

Statutory Limit Adjustment: N/A

Applicable Penalty Policy: September 2002 and September 2011

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Aqua Utilities, Inc.
RN102956448
Docket No. 2012-0858-MWD-E

Investigation Information

Complaint Date(s): N/A

Complaint Information: N/A

Date(s) of Investigation: February 2, 2012

Date(s) of NOE(s): April 2, 2012

Violation Information

1. Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0013989001, Permit Conditions No. 2.g.].
2. Failed to comply with permitted effluent limitations for total suspended solids and 5-day biochemical oxygen demand [TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0013989001, Effluent Limitations and Monitoring Requirements No. IV. A.].
3. Failed to obtain and analyze soil samples from the root zones of the land application site [30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(d) and TCEQ Permit No. WQ0013989001, Monitoring Requirements No. 1 and Special Provisions No. 9].

Corrective Actions/Technical Requirements

Corrective Action(s) Completed:

Respondent has implemented the following corrective measures at the System:

- a. On September 20, 2010, at 20 Woodcreek Drive, the area was disinfected with calcium hypochlorite ("HTH"). A new tap saddle and brass nipple was installed.
- b. On September 26, 2010, at the Wimberley High School Lift Station, vacuumed standing water in the parking lot. Wires on the wire-block were reconnected.
- c. On October 24, 2010, at 30 Champion Circle, the area was disinfected with HTH. The tap was replaced and the service box was adjusted to take pressure off the line.
- d. On November 21, 2010, at the 2300 block of FM 2323 (Main and Cross Country), the area was sprayed with a bleach solution and the leak was repaired.
- e. On January 23, 2011, at the Camp Young Judaea property, cleaned-up standing water with vacuum truck and sprayed disinfectant on affected area.
- f. On March 13, 2011, at an unknown location, the standing wastewater was treated with HTH and the pipe was repaired.

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Aqua Utilities, Inc.

RN102956448

Docket No. 2012-0858-MWD-E

- g. On March 13, 2011, at the Camp Young Judaea property, vacuumed the standing water and treated affected area with HTH. Collection line was dug up, repaired, and bedded with sand.
- h. On May 30, 2011, at the Ranch View Lift Station, the affected area was cleaned with HTH. Controls repaired and cleaning frequency of lift station increased to twice a week.
- i. On June 13, 2011, at Hole # 10 of the golf course, vacuumed the spilled wastewater, followed by chlorine topical disinfection of the affected area. The leak was repaired.
- j. On June 18, 2011, at the field near Cypress Point, vacuumed the spilled wastewater, followed by chlorine topical disinfection of the affected area. The leak was repaired.
- k. On August 18, 2011, at the Camp Young Judaea property, vacuumed the spilled wastewater, followed by chlorine topical disinfection of the affected area. The leak was repaired.
- l. On August 23, 2011, at the Camp Young Judaea property, HTH was used to disinfect all affected areas. The split section was removed, replaced, and sand bedded.
- m. On November 27, 2011, at the Camp Young Judaea property, vacuumed the spilled wastewater, followed by chlorine topical disinfection of the affected area. The leak was repaired.
- n. On November 28, 2011, at 312 Shady Bluff, the area was disinfected with granular chlorine and the lift station pump was repaired.
- o. On January 8, 2012, at the Pleasant Valley Lift Station, vacuumed the spilled wastewater, followed by chlorine topical disinfection of the affected area. The pump was repaired.
- p. On January 20, 2012, at three cleanouts located at 20 Deer Ridge, the affected area was disinfected with a solution of bleach and water. The line was jetted and cleaned with a vector truck.
- q. By February 2, 2012, Respondent returned to compliance with the permitted effluent limits after making repairs to the clarifier basin.

Technical Requirements:

The Order will require Respondent to:

- a. Within 30 days, update the Facility's operational guidance and conduct employee training to ensure that monitoring requirements are properly accomplished, including the sampling and analysis of irrigated soil; and

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b. Within 45 days, submit written certification demonstrating compliance.

Litigation Information

Date Petition(s) Filed: N/A
Date Answer(s) Filed: N/A
SOAH Referral Date: N/A
Hearing Date(s): N/A
Settlement Date: N/A

Contact Information

TCEQ Attorney: N/A
TCEQ Enforcement Coordinator: JR Cao, Enforcement Division, Enforcement Team 1, MC 169, (512) 239-2543; Debra Barber, Enforcement Division, MC 219, (512) 239-0412
TCEQ SEP Coordinator: N/A
Respondent: Robert Laughman, President, Aqua Utilities, Inc., 1106 Clayton Lane, Suite 400W, Austin, Texas 78723
Steve Blackhurst, Compliance Manager, Aqua Utilities, Inc., 1106 Clayton Lane, Suite 400W, Austin, Texas 78723
Respondent's Attorney: N/A



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision October 30, 2008

TCEQ

DATES	Assigned	2-Apr-2012	Screening	18-Apr-2012	EPA Due	
	PCW	25-Apr-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	Aqua Utilities, Inc.		
Reg. Ent. Ref. No.	RN102956448		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	44025	No. of Violations	2
Docket No.	2012-0858-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	JR Cao
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$10,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$15,000**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **22.0%** Enhancement **Subtotals 2, 3, & 7** **\$3,300**

Notes Enhancement for four NOVs with same/similar violations and one NOV with dissimilar violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$3,750**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts **\$4,582**
Approx. Cost of Compliance **\$70,000**
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$14,550**

OTHER FACTORS AS JUSTICE MAY REQUIRE **0.0%** **Adjustment** **\$0**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes

Final Penalty Amount **\$14,550**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$14,550**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$14,550**

Screening Date 18-Apr-2012

Docket No. 2012-0858-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 2 (September 2002)

Case ID No. 44025

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102956448

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 22%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for four NOVs with same/similar violations and one NOV with dissimilar violations.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 22%

Screening Date 18-Apr-2012

Docket No. 2012-0858-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 2 (September 2002)

Case ID No. 44025

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102956448

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 1

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0013989001, Permit Conditions No. 2.g

Violation Description

Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted on February 2, 2012. Specifically, a review of the Facility's records indicated that twelve unauthorized discharges of wastewater were reported from September 2010 to August 2011, as shown in the attached table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			x
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 12

337 Number of violation days

mark only one
with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$12,000

Twelve quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$3,000

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance by August 23, 2011.

Violation Subtotal \$9,000

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3,878

Violation Final Penalty Total \$11,640

This violation Final Assessed Penalty (adjusted for limits) \$11,640

Economic Benefit Worksheet

Respondent Aqua Utilities, Inc.

Case ID No. 44025

Reg. Ent. Reference No. RN102956448

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$60,000	20-Sep-2010	23-Aug-2011	0.92	\$185	\$3,693	\$3,878
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to clean and disinfect the affected areas and make any necessary repairs (12 x \$5,000 = \$60,000). The date required is the date of the first discharge. The final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$60,000

TOTAL

\$3,878

Screening Date 18-Apr-2012

Docket No. 2012-0858-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 2 (September 2002)

Case ID No. 44025

PCW Revision October 30, 2008

Reg. Ent. Reference No. RN102956448

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 2

Rule Cite(s)

Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and TCEQ Permit No. WQ0013989001, Effluent Limitations and Monitoring Requirements No. IV. A

Violation Description

Failed to comply with permitted effluent limitations, as documented during an investigation conducted on February 2, 2012, and as shown in the attached violation table.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			X
Potential			

Percent 10%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants which do not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3

182 Number of violation days

mark only one with an x	daily	
	weekly	
	monthly	
	quarterly	X
	semiannual	
	annual	
	single event	

Violation Base Penalty \$3,000

Three quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$750

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	X	
N/A		(mark with x)

Notes

The Respondent achieved compliance by February 2, 2012.

Violation Subtotal \$2,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$704

Violation Final Penalty Total \$2,910

This violation Final Assessed Penalty (adjusted for limits) \$2,910

Economic Benefit Worksheet

Respondent Aqua Utilities, Inc.
Case ID No. 44025
Reg. Ent. Reference No. RN102956448
Media Water Quality
Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$10,000	31-Jan-2011	2-Feb-2012	1.01	\$34	\$670	\$704
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to evaluate the cause of the non-compliance and to implement corrective actions. Date required is the first date of non-compliance. Final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$10,000

TOTAL

\$704

UNAUTHORIZED DISCHARGE TABLE**Aqua Utilities, Inc.****RN102956448****Docket No. 2012-0858-MWD-E**

Date	Locations	Amount Discharged (gallons)	Description
September 20, 2010	20 Woodcreek Dr.	50	Unauthorized discharge from wastewater tap.
September 26, 2010	Wimberley High School Lift Station	200	Unauthorized discharge from the lift station and into the parking lot. Float wires on the wirebox corroded and disconnected.
October 24, 2010	30 Champion Circle	50	Unauthorized discharge from a broken tap.
November 21, 2010	2300 block of FM 2323 (Main and Cross Country)	7,500	Unauthorized discharge from a leak in the line.
January 23, 2011	Camp Young Judaea property	7,500	Unauthorized discharge because of a 36 inch split in the six inch force main.
March 13, 2011	unknown	50	Unauthorized discharge because of an eight inch hole in the collection main.
March 13, 2011	Camp Young Judaea property	8,000	Unauthorized discharge because of a split in six inch transfer main.
May 30, 2011	Ranch View Lift Station	300	Unauthorized discharge because of a short in pump 1 & 2 controls and high grease level preventing alarm float from signaling high level.
June 13, 2011	Hole # 10 of the golf course	500	Unauthorized discharge from leak in the line.
June 18, 2011	Field near Cypress Point	20,000	Unauthorized discharge from leak in the line.
August 18, 2011	Camp Young Judaea property	3,000	Unauthorized discharge from force main rupture; suspected ground shift as a result of hot, dry weather.
August 23, 2011	Camp Young Judaea property	3,000	Unauthorized discharge from a six inch sewer transfer line that split.
November 27, 2011	Camp Young Judaea property	7,500	Unauthorized discharge from a six inch broken line.
November 28, 2011	312 Shady Bluff	350	Unauthorized discharge from a failure of the lift station pump.

January 8, 2012	Pleasant Valley Lift Station	100	Unauthorized discharge because of a a short in the pump control panel.
January 20, 2012	3 cleanouts located at 20 Deer Ridge	50	Unauthorized discharge from a line blockage.

EFFLUENT VIOLATION TABLE				
Aqua Utilities, Inc.				
TPDES Permit No. WQ0013989001				
Docket No. 2012-0858-MWD-E				
Months	TSS Daily Average Conc.	TSS Single Grab Conc.	BOD₅ Daily Avg. Conc.	BOD₅ Single Grab Conc.
	Limit = 20 mg/L	Limit = 65 mg/L	Limit = 20 mg/L	Limit = 65 mg/L
January 2011	91.25	236	27.25	c
February 2011	55.75	97	33.5	c
March 2011	136.4	387	40.2	89
May 2011	44.5	152	40.4	89
June 2011	49.6	92	74.8	117
July 2011	c	69	42	95

TSS = total suspended solids

BOD₅ = 5-day biochemical oxygen demand

Conc. = concentration

mg/L = milligrams per liter

avg. = average

c = compliant



Penalty Calculation Worksheet (PCW)

Policy Revision 3 (September 2011)

PCW Revision August 3, 2011

TCEQ

DATES	Assigned	2-Apr-2012	Screening	18-Apr-2012	EPA Due	
	PCW	25-Apr-2012				

RESPONDENT/FACILITY INFORMATION

Respondent	Aqua Utilities, Inc.		
Reg. Ent. Ref. No.	RN102956448		
Facility/Site Region	11-Austin	Major/Minor Source	Minor

CASE INFORMATION

Enf./Case ID No.	44025	No. of Violations	2
Docket No.	2012-0858-MWD-E	Order Type	Findings
Media Program(s)	Water Quality	Government/Non-Profit	No
Multi-Media		Enf. Coordinator	JR Cao
		EC's Team	Enforcement Team 1
Admin. Penalty \$ Limit Minimum	\$0	Maximum	\$25,000

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties) **Subtotal 1** **\$6,250**

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History **22.0%** Enhancement **Subtotals 2, 3, & 7** **\$1,375**

Notes Enhancement for four NOV's with same/similar violations and one NOV with dissimilar violations.

Culpability **No** **0.0%** Enhancement **Subtotal 4** **\$0**

Notes The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply Total Adjustments **Subtotal 5** **\$1,250**

Economic Benefit **0.0%** Enhancement* **Subtotal 6** **\$0**

Total EB Amounts \$386
Approx. Cost of Compliance \$20,400
*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7 **Final Subtotal** **\$6,375**

OTHER FACTORS AS JUSTICE MAY REQUIRE **2.6%** **Adjustment** **\$164**

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes Enhancement to capture the avoided cost associated with Violation No. 2.

Final Penalty Amount **\$6,539**

STATUTORY LIMIT ADJUSTMENT **Final Assessed Penalty** **\$6,539**

DEFERRAL **0.0%** Reduction **Adjustment** **\$0**

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes No deferral is recommended for Findings Orders.

PAYABLE PENALTY **\$6,539**

Screening Date 18-Apr-2012

Docket No. 2012-0858-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 3 (September 2011)

Case ID No. 44025

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102956448

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written notices of violation ("NOVs") with same or similar violations as those in the current enforcement action (<i>number of NOVs meeting criteria</i>)	4	20%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (<i>number of orders meeting criteria</i>)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (<i>number of judgements or consent decrees meeting criteria</i>)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (<i>number of counts</i>)	0	0%
Emissions	Chronic excessive emissions events (<i>number of events</i>)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which notices were submitted</i>)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (<i>number of audits for which violations were disclosed</i>)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 22%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Enhancement for four NOVs with same/similar violations and one NOV with dissimilar violations.

Total Compliance History Adjustment Percentage (Subtotals 2, 3, & 7) 22%

>> Final Compliance History Adjustment

Final Adjustment Percentage *capped at 100% 22%

Screening Date 18-Apr-2012

Docket No. 2012-0858-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 3 (September 2011)

Case ID No. 44025

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102956448

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 1

Rule Cite(s) Tex. Water Code § 26.121(a)(1), 30 Tex. Admin. Code § 305.125(1), and Texas Commission on Environmental Quality ("TCEQ") Permit No. WQ0013989001, Permit Conditions No. 2.g

Violation Description

Failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, as documented during an investigation conducted on February 2, 2012. Specifically, a review of the Facility's records indicated that four unauthorized discharges of wastewater were reported from November 2011 to January 2012, as shown in the attached table.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

	Major	Moderate	Minor
Release			
Actual			x
Potential			

Percent 5.0%

>> Programmatic Matrix

	Major	Moderate	Minor
Falsification			

Percent 0.0%

Matrix Notes

Human health or the environment has been exposed to insignificant amounts of pollutants as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 4

53 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	x
semiannual	
annual	
single event	

Violation Base Penalty \$5,000

Four quarterly events are recommended.

Good Faith Efforts to Comply

25.0% Reduction

\$1,250

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary	x	
N/A		(mark with x)

Notes

The Respondent achieved compliance by January 20, 2012.

Violation Subtotal \$3,750

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$207

Violation Final Penalty Total \$4,975

This violation Final Assessed Penalty (adjusted for limits) \$4,975

Economic Benefit Worksheet

Respondent Aqua Utilities, Inc.

Case ID No. 44025

Reg. Ent. Reference No. RN102956448

Media Water Quality

Violation No. 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
<small>No commas or \$</small>							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)	\$20,000	27-Nov-2011	20-Jan-2012	0.15	\$10	\$197	\$207
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling				0.00	\$0	n/a	\$0
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to clean and disinfect the affected areas and make any necessary repairs (4 x \$5,000 = \$20,000). The date required is the date of the first discharge. The final date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$20,000

TOTAL

\$207

Screening Date 18-Apr-2012

Docket No. 2012-0858-MWD-E

PCW

Respondent Aqua Utilities, Inc.

Policy Revision 3 (September 2011)

Case ID No. 44025

PCW Revision August 3, 2011

Reg. Ent. Reference No. RN102956448

Media [Statute] Water Quality

Enf. Coordinator JR Cao

Violation Number 2

Rule Cite(s)

30 Tex. Admin. Code §§ 305.125(1) and 319.5(d) and TCEQ Permit No. WQ0013989001, Monitoring Requirements No. 1 and Special Provisions No. 9

Violation Description

Failed to obtain and analyze soil samples from the root zones of the land application site, as documented during the investigation conducted on February 2, 2012. Specifically, annual soil samples were not collected and analyzed for the monitoring period due September 2011.

Base Penalty \$25,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential		x	

Percent 5.0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor

Percent 0.0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would not exceed levels that are protective of human health or environmental receptors as a result of the violation.

Adjustment \$23,750

\$1,250

Violation Events

Number of Violation Events 1

230 Number of violation days

mark only one with an x

daily	
weekly	
monthly	
quarterly	
semiannual	
annual	
single event	x

Violation Base Penalty \$1,250

One single event is recommended.

Good Faith Efforts to Comply

0.0% Reduction

\$0

	Before NOV	NOV to EDPRP/Settlement Offer
Extraordinary		
Ordinary		
N/A	x	(mark with x)

Notes

The Respondent does not meet the good faith criteria for this violation.

Violation Subtotal \$1,250

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$179

Violation Final Penalty Total \$1,564

This violation Final Assessed Penalty (adjusted for limits) \$1,564

Economic Benefit Worksheet

Respondent Aqua Utilities, Inc.

Case ID No. 44025

Reg. Ent. Reference No. RN102956448

Media Water Quality

Violation No. 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.00	\$0	\$0	\$0
Buildings				0.00	\$0	\$0	\$0
Other (as needed)				0.00	\$0	\$0	\$0
Engineering/construction				0.00	\$0	\$0	\$0
Land				0.00	\$0	n/a	\$0
Record Keeping System				0.00	\$0	n/a	\$0
Training/Sampling	\$250	30-Sep-2011	21-Nov-2012	1.15	\$14	n/a	\$14
Remediation/Disposal				0.00	\$0	n/a	\$0
Permit Costs				0.00	\$0	n/a	\$0
Other (as needed)				0.00	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost of updating procedures and training Facility personnel to ensure that sampling is performed and all reports are submitted timely and complete. Date required is the date the soil monitoring results were due. Final date is the date training is expected to be completed.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.00	\$0	\$0	\$0
Personnel				0.00	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.00	\$0	\$0	\$0
Supplies/equipment				0.00	\$0	\$0	\$0
Financial Assurance [2]				0.00	\$0	\$0	\$0
ONE-TIME avoided costs [3]	\$150	1-Sep-2010	31-Aug-2011	1.92	\$14	\$150	\$164
Other (as needed)				0.00	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated avoided cost to conduct sampling and analysis for soil monitoring. Date required is the start date of the annual monitoring period. Final date is the end date of the annual monitoring period.

Approx. Cost of Compliance

\$400

TOTAL

\$179

Compliance History Report

Customer/Respondent/Owner-Operator: CN602787509 Aqua Utilities, Inc. Classification: AVERAGE Rating: 1.88
Regulated Entity: RN102956448 WOODCREEK WWTP Classification: AVERAGE Site Rating: 5.40
ID Number(s): WASTEWATER PERMIT WQ0013989001
Location: approximately 1,200 feet south southeast of the intersection of Farm-to-Market Road 2325 and Jacob's Well Road, approximately 4 miles north of Wimberley, Hays County, Texas
TCEQ Region: REGION 11 - AUSTIN
Date Compliance History Prepared: April 18, 2012
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: April 18, 2007 to April 18, 2012
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: JR Cao Phone: (512) 239-2543

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? YES
2. Has there been a (known) change in ownership/operator of the site during the compliance period? NO
3. If YES, who is the current owner/operator? N/A
4. If YES, who was/were the prior owner(s)/operator(s)? N/A
5. If YES, when did the change(s) in owner or operator occur? N/A
6. Rating Date: 9/1/2011 Repeat Violator: NO

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgments, and consent decrees of the State of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)

- 1 09/28/2007 (595382)
- 2 08/25/2008 (700789)
- 3 01/06/2009 (722291)
- 4 07/21/2009 (762935)
- 5 04/07/2011 (906162)
- 6 03/30/2012 (988194)

- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 07/31/2007 (565046) CN602787509
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(4)
30 TAC Chapter 305, SubChapter F 305.125(5)
TWC Chapter 26 26.121

TWC Chapter 26 26.121(a)
TWC Chapter 26 26.121(a)(1)
TWC Chapter 26 26.121(a)(2)
TWC Chapter 26 26.121(a)(3)
TWC Chapter 26 26.121(b)
TWC Chapter 26 26.121(c)
TWC Chapter 26 26.121(d)
TWC Chapter 26 26.121(e)
VII. STANDARD PROVISIONS: 2 (b) PERMIT

Description: Unauthorized discharges of untreated wastewater
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 317 317.3(c)(1)
30 TAC Chapter 317 317.3(c)(2)
30 TAC Chapter 317 317.3(c)(3)
30 TAC Chapter 317 317.3(c)(4)
30 TAC Chapter 317 317.3(c)(5)
30 TAC Chapter 317 317.3(c)(6)
30 TAC Chapter 317 317.3(c)(7)
Description: Failure to provide the Pro Lane Lift Station with a minimum of two functional pumps
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(5)
Special Provisions (12) PERMIT
Description: Failure to maintain a trace chlorine residual in the effluent at the point of irrigation application as required by permit special provision, and failure to maintain records demonstrating compliance with the permit special provision.

Date: 08/29/2008 (700789) CN602787509
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(9)
Description: Failure to notify the TCEQ within 24 hours for an unauthorized discharge

Date: 11/07/2008 (703182) CN602787509
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.4(a)(5)
Description: Failure to provide adequate auxiliary power
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to meet effluent limits
Self Report? NO Classification: Moderate
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to submit required noncompliance notification
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.3(e)(4)(D)
Description: Failure to provide an audio-visual alarm system (red flashing light and horn) at all lift stations.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 317 317.3(a)
30 TAC Chapter 317 317.3(e)(4)(C)
Description: Failure to provide an intruder-resistant lift station at the Shady Bluff Lift Station.
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to obtain and analyze representative soil samples annually
Self Report? NO Classification: Minor
Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Description: Failure to submit the results of the soil sample analyses to the TCEQ Austin Regional Office (MC Region 11) and Water Quality Compliance Monitoring Team (MC224) of the Enforcement Division during September of each year

Date: 10/25/2010 (870806) CN602787509
Self Report? NO Classification: Moderate
Citation: TWC Chapter 26 26.121
Description: Unauthorized discharge of wastewater.

Date: 04/06/2011 (906162)

CN602787509

Self Report? NO

Classification: Moderate

Citation: 30 TAC Chapter 305, SubChapter F 305.125(1)
Permit Condition 2g PERMIT
TWC Chapter 26 26.121

Description: Failure to prevent the unauthorized discharge of wastewater from the collection system.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
AQUA UTILITIES, INC.
RN102956448

§ BEFORE THE
§
§ TEXAS COMMISSION ON
§
§ ENVIRONMENTAL QUALITY

AGREED ORDER DOCKET NO. 2012-0858-MWD-E

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Aqua Utilities, Inc. ("Respondent") under the authority of TEX. WATER CODE chs. 7 and 26. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent presented this agreement to the Commission.

The Respondent understands that it has certain procedural rights at certain points in the enforcement process, including, but not limited to, the right to formal notice of violations, notice of an evidentiary hearing, the right to an evidentiary hearing, and a right to appeal. By entering into this Agreed Order, the Respondent agrees to waive all notice and procedural rights.

It is further understood and agreed that this Order represents the complete and fully-integrated settlement of the parties. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable. The duties and responsibilities imposed by this Agreed Order are binding upon the Respondent.

The Commission makes the following Findings of Fact and Conclusions of Law:

I. FINDINGS OF FACT

1. The Respondent owns and operates a wastewater treatment facility with an associated collection system ("System") located approximately 1,200 feet south southeast of the intersection of Farm-to-Market Road 2325 and Jacob's Well Road, approximately four miles north of Wimberley in Hays County, Texas (the "Facility").

2. The Respondent has discharged municipal waste into or adjacent to any water in the state under TEX. WATER CODE ch. 26.
3. During an investigation on February 2, 2012, TCEQ staff documented the following unauthorized discharges from the System:

UNAUTHORIZED DISCHARGE TABLE			
Date	Locations	Amount Discharged (gallons)	Description
September 20, 2010	20 Woodcreek Dr.	50	Unauthorized discharge from the wastewater tap.
September 26, 2010	Wimberley High School Lift Station	200	Unauthorized discharge from the lift station and into the parking lot. Float wires on the wirebox corroded and disconnected.
October 24, 2010	30 Champion Circle	50	Unauthorized discharge from a broken tap.
November 21, 2010	2300 block of FM 2323 (Main and Cross Country)	7,500	Unauthorized discharge from a leak in the line.
January 23, 2011	Camp Young Judaea property	7,500	Unauthorized discharge because of a 36 inch split in the six inch force main.
March 13, 2011	unknown	50	Unauthorized discharge because of an eight inch hole in the collection main.
March 13, 2011	Camp Young Judaea property	8,000	Unauthorized discharge because of a split in six inch transfer main.
May 30, 2011	Ranch View Lift Station	300	Unauthorized discharge because of a short in pump 1 & 2 controls and high grease level preventing alarm float from signaling high level.
June 13, 2011	Hole # 10 of the golf course	500	Unauthorized discharge from leak in the line.

UNAUTHORIZED DISCHARGE TABLE cont.			
June 18, 2011	Field near Cypress Point	20,000	Unauthorized discharge from leak in the line.
August 18, 2011	Camp Young Judaea property	3,000	Unauthorized discharge from force main rupture; suspected ground shift as a result of hot, dry weather.
August 23, 2011	Camp Young Judaea property	3,000	Unauthorized discharge from a six inch sewer transfer line that split.
November 27, 2011	Camp Young Judaea property	7,500	Unauthorized discharge from a six inch broken line.
November 28, 2011	312 Shady Bluff	350	Unauthorized discharge from a failure of the lift station pump.
January 8, 2012	Pleasant Valley Lift Station	100	Unauthorized discharge because of a short in the pump control panel.
January 20, 2012	3 cleanouts located at 20 Deer Ridge	50	Unauthorized discharge from a line blockage.

4. During an investigation conducted on February 2, 2012, TCEQ staff documented the following from a review of the effluent reports:

EFFLUENT VIOLATION TABLE				
Months	TSS Daily Average Conc.	TSS Single Grab Conc.	BOD ₅ Daily Avg. Conc.	BOD ₅ Single Grab Conc.
	Limit = 20 mg/L	Limit = 65 mg/L	Limit = 20 mg/L	Limit = 65 mg/L
January 2011	91.25	236	27.25	c
February 2011	55.75	97	33.5	c
March 2011	136.4	387	40.2	89
May 2011	44.5	152	40.4	89
June 2011	49.6	92	74.8	117
July 2011	c	69	42	95

TSS = total suspended solids

mg/L = milligrams per liter

BOD₅ = 5-day biochemical oxygen demand

avg. = average

Conc. = concentration

c = compliant

5. During an investigation conducted on February 2, 2012, TCEQ staff documented that the annual soil samples were not collected and analyzed for the monitoring period due September 2011.
6. The Respondent received notice of the violations on April 4, 2012.

7. The Executive Director recognizes that the Respondent has implemented the following corrective measures at the System:

CORRECTIVE ACTION TABLE		
Date	Locations	Description of Corrective Action
September 20, 2010	20 Woodcreek Dr.	The area was disinfected with calcium hypochlorite ("HTH"). A new tap saddle and brass nipple was installed.
September 26, 2010	Wimberley High School Lift Station	Vacuumed standing water in the parking lot. Wires on the wireblock were reconnected.
October 24, 2010	30 Champion Circle	The area was disinfected with HTH. The tap was replaced and the service box was adjusted to take pressure off the line.
November 21, 2010	2300 block of FM 2323 (Main and Cross Country)	The area was sprayed with a bleach solution and the leak was repaired.
January 23, 2011	Camp Young Judaea property	Cleaned-up standing water with vacuum truck and sprayed disinfectant on affected area.
March 13, 2011	unknown	The standing wastewater was treated with HTH and the pipe was repaired.
March 13, 2011	Camp Young Judaea property	Vacuumed the standing water and treated affected area with HTH. Collection line was dug up, repaired, and bedded with sand.
May 30, 2011	Ranch View Lift Station	The affected area was cleaned with HTH. Controls repaired and cleaning frequency of lift station increased to twice a week.
June 13, 2011	Hole # 10 of the golf course	Vacuumed the spilled wastewater, followed by chlorine topical disinfection of the affected area. The leak was repaired.
June 18, 2011	Field near Cypress Point	Vacuumed the spilled wastewater, followed by chlorine topical disinfection of the affected area. The leak was repaired.
August 18, 2011	Camp Young Judaea property	Vacuumed the spilled wastewater, followed by chlorine topical disinfection of the affected area. The leak was repaired.

CORRECTIVE ACTION TABLE cont.		
August 23, 2011	Camp Young Judaea property	HTH was used to disinfect all affected areas. The split section was removed, replaced, and sand bedded.
November 27, 2011	Camp Young Judaea property	Vacuumed the spilled wastewater, followed by chlorine topical disinfection of the affected area. The leak was repaired.
November 28, 2011	312 Shady Bluff	The area was disinfected with granular chlorine and the lift station pump was repaired.
January 8, 2012	Pleasant Valley Lift Station	Vacuumed the spilled wastewater, followed by chlorine topical disinfection of the affected area. The pump was repaired.
January 20, 2012	3 cleanouts located at 20 Deer Ridge	The affected area was disinfected with a solution of bleach and water. The line was jetted and cleaned with a vector truck.

8. The Executive Director recognizes that by February 2, 2012, the Respondent returned to compliance with the permitted effluent limits after making repairs to the clarifier basin.

II. CONCLUSIONS OF LAW

1. The Respondent is subject to the jurisdiction of the TCEQ pursuant to TEX. WATER CODE chs. 7 and 26 and the rules of the Commission.
2. As evidenced by Findings of Fact No. 3, the Respondent failed to prevent the unauthorized discharge of wastewater into or adjacent to water in the state, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0013989001, Permit Conditions No. 2.g.
3. As evidenced by Findings of Fact No. 4, the Respondent failed to comply with permitted effluent limitations, in violation of TEX. WATER CODE § 26.121(a)(1), 30 TEX. ADMIN. CODE § 305.125(1), and TCEQ Permit No. WQ0013989001, Effluent Limitations and Monitoring Requirements No. IV. A.
4. As evidenced by Findings of Fact No. 5, the Respondent failed to obtain and analyze soil samples from the root zones of the land application site, in violation of 30 TEX. ADMIN. CODE §§ 305.125(1) and 319.5(d) and TCEQ Permit No. WQ0013989001, Monitoring Requirements No. 1 and Special Provisions No. 9.

5. Pursuant to TEX. WATER CODE § 7.051, the Commission has the authority to assess an administrative penalty against the Respondent for violations of the Texas Water Code and the Texas Health and Safety Code within the Commission's jurisdiction; for violations of rules adopted under such statutes; or for violations of orders or permits issued under such statutes.
6. An administrative penalty in the amount of Twenty-One Thousand Eighty-Nine Dollars (\$21,089) is justified by the facts recited in this Agreed Order, and considered in light of the factors set forth in TEX. WATER CODE § 7.053. The Respondent has paid the Twenty-One Thousand Eighty-Nine Dollar (\$21,089) administrative penalty.

III. ORDERING PROVISIONS

NOW, THEREFORE, THE TEXAS COMMISSION ON ENVIRONMENTAL QUALITY ORDERS that:

1. The Respondent is assessed an administrative penalty in the amount of Twenty-One Thousand Eighty-Nine Dollars (\$21,089) as set forth in Section II, Paragraph 6 above, for violations of TCEQ rules and state statutes. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order completely resolve the violations set forth by this Agreed Order in this action. However, the Commission shall not be constrained in any manner from requiring corrective actions or penalties for other violations that are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Aqua Utilities, Inc., Docket No. 2012-0858-MWD-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. The Respondent shall undertake the following technical requirements:
 - a. Within 30 days after the effective date of this Agreed Order, update the Facility's operational guidance and conduct employee training to ensure that monitoring requirements are properly accomplished, including the sampling and analysis of irrigated soil, in accordance with TCEQ Permit No. WQ0013989001, Special Provisions No. 9; and
 - b. Within 45 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance

with Ordering Provision No. 2.a. The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Water Section, Manager
Austin Regional Office
Texas Commission on Environmental Quality
2800 S IH 35, Suite 100
Austin, Texas 78704-5712

3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director.

The determination of what constitutes good cause rests solely with the Executive Director.

6. The Executive Director may refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings without notice to the Respondent if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
7. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
8. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
9. This Agreed Order may be executed in separate and multiple counterparts, which together shall constitute a single instrument. Any page of this Agreed Order may be copied, scanned, digitized, converted to electronic portable document format ("pdf"), or otherwise reproduced and may be transmitted by digital or electronic transmission, including but not limited to facsimile transmission and electronic mail. Any signature affixed to this Agreed Order shall constitute an original signature for all purposes and may be used, filed, substituted, or issued for any purpose for which an original signature could be used. The term "signature" shall include manual signatures and true and accurate reproductions of manual signatures created, executed, endorsed, adopted, or authorized by the person or persons to whom the signatures are attributable. Signatures may be copied or reproduced digitally, electronically, by photocopying, engraving, imprinting, lithographing, electronic mail, facsimile transmission, stamping, or any other means or process which the Executive Director deems acceptable. In this paragraph exclusively, the terms "electronic transmission", "owner", "person", "writing", and "written" shall have the meanings assigned to them under TEX. BUS. ORG. CODE § 1.002.
10. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties. By law, the effective date of this Agreed Order is the third day after the mailing date, as provided by 30 TEX. ADMIN. CODE § 70.10(b) and TEX. GOV'T CODE § 2001.142.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission


For the Executive Director

11/18/13
Date

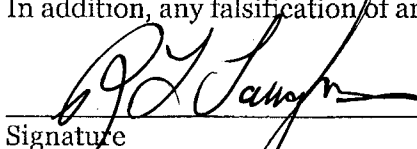
I, the undersigned, have read and understand the attached Agreed Order in the matter of Aqua Utilities, Inc. I am authorized to agree to the attached Agreed Order on behalf of Aqua Utilities, Inc., and do agree to the specified terms and conditions. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I understand that by entering into this Agreed Order, Aqua Utilities, Inc. waives certain procedural rights, including, but not limited to, the right to formal notice of violations addressed by this Agreed Order, notice of an evidentiary hearing, the right to an evidentiary hearing, and the right to appeal. I agree to the terms of the Agreed Order in lieu of an evidentiary hearing. This Agreed Order constitutes full and final adjudication by the Commission of the violations set forth in this Agreed Order.

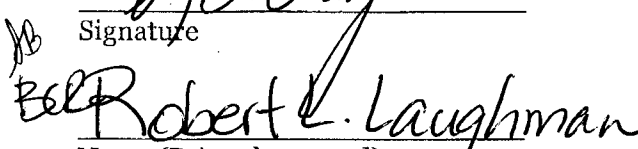
I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.


Signature

8-1-2012
Date


Name (Printed or typed)

Authorized Representative of
Aqua Utilities, Inc.

President
Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section III, Paragraph 1 of this Agreed Order.